SUPREME COURT OF INDIA

Santoshkumar Shivgonda Patil

Vs.

Balasaheb Tukaram Shevale

C.A.No.6017 of 2009

(Tarun Chatterjee and R. M. Lodha JJ.)

02.09.2009

JUDGEMENT

R.M. Lodha, J.

1. Delay condoned in SLP (c) No.22662/09 CC 2563.

2 Leave granted in both matters.

3. The short question that arises for consideration in this appeal by special leave is whether power of revision in Section 257 of Maharashtra Land Revenue Code, 1966 can be exercised at any time although no time has been prescribed for exercise of such power.

4. Takawade Gat No. 1157 (Old Survey No. 201/1) admeasuring 6H65R originally belonged to one N.R. Deshpande.

> "The land was an inam land which was resumed on August 1, 1955. On the date of resumption, there were four tenants holding 1/4th share each. Tukaram Sakharam Shevale, predecessor in title of Respondent Nos. 1 to 5, one of such tenants, thus, held land admeasuring 1H 66R. The original landlord, N.R. Deshpande, was required to pay occupancy price before July 31, 1965 which he did only to the extent of 3/4 th in respect of lands possessed by three tenants other than Tukaram Sakharam Shevale. The 3/4th portion was, thus, regranted and later on sold to the tenants occupying such portion. As regards 1/4th portion occupied by Tukaram Sakharam Shevale, it appears that no occupancy price was paid and this portion was resumed to the State. Tukaram is, however, said to have continued to remain in possession of 1/4th portion of the land till 1974-75."

5. The Tahsildar, Shirol, on March 30, 1976, passed an order hereby 3/4th of portion of Land earlier in occupation of Tukaram was granted in favour of Shivgonda Satgonda Patil on the basis of his occupation as cultivator and 1/4th remained in favour of Tukaram Sakharam Shevale.

6. Tukaram Sakharam Shevale, until his death in 1990, did not challenge the Tahsildar's Order dated March 30, 1976 in any proceeding. It was only after the death of Tukaram that his legal heirs, namely, Respondent Nos. 1 to 5 herein, made an application before the Sub-Divisional Officer, Ichalkaranji in 1993 seeking revision of the order of Tahsildar, Shirol passed on March 30, 1976. The Sub- Divisional Officer, Ichalkaranji invoked his revisional power under Section 257 of the Maharashtra Land Revenue Code and after hearing the parties and getting the report from the Tahsildar, Shirol vide his order dated August 16, 1994 allowed the revision application and set aside the order dated March 30, 1976 giving 3/16th share in R.S. No. 210/1 to Shivgonda Satgonda Patil. The Sub-Divisional Officer, Ichalkaranji declared that 1/4th share in R.S. No. 210/1 admeasuring 1H 66R shall be deemed to have been granted to Tukaram Shevale and pik-pahani entries made in favour of Shivgonda Satgonda Patil shall be treated as unauthorized and illegal.

7. Upset by the order dated August 16, 1994, the present appellants preferred appeal before the Additional Collector, Kolhapur who agreed with the view of Sub-Divisional Officer, Ichalkaranji and rejected the appeal on September 1 6, 1995.

8. The present appellants carried the matter before Commissioner, Pune Division, Pune but without any success.

9. The present appellants then filed writ petition before the High Court of Judicature at Bombay (Appellate side). The Single Judge dismissed the writ petition on June 20, 1996.

10. The appellants preferred Letters Patent Appeal before the Division Bench of the High Court which also came to be rejected on September 1, 2004.

11. Section 257 of the Maharashtra Land Revenue Code empowers State Government and certain Revenue and Survey Officers to call for and examine records and proceedings of Subordinate Officers. Thus, a power of revision is conferred on the State Government and certain Revenue and Survey Officers under Section 257.

12. Section 257 reads thus:

> "Section 257 - Power of State Government and of certain Revenue and Survey Officers to call for and examine records and proceedings of subordinate officers (1) The State, Government and any Revenue or Survey Officer, not inferior in rank to an Assistant or Deputy Collector, or a Superintendent of Land Records, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate Revenue or Survey Officer, for the purpose of satisfying itself or himself, as the case may be, as the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

(2) A Tahsildar, a Naib-Tahsildar, and a District Inspector of Land Records may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held.

(3) If in any case, it shall appear to the State Government, or to any officer referred to in sub- section (1) or sub-section (2) that any decision or order or proceedings so called for should be modified, annulled or reversed, it or he may pass such order thereon as it or he deems fit:

Provided that, the State Government or such officer shall not vary or reverse any order affecting any question or right between private persons without having to the parties interested notice to appear and to be heard in support of such order:

Provided further that, an Assistant or Deputy Collector shall not himself pass such order in any matter in which a formal inquiry has been held, but shall submit the record with his opinion to the Collector, who shall pass such order thereon as he may deem fit."

13. A close look at the aforesaid provision would show that there is no time limit fixed for exercise of power of revision by the revisional authority. The question is, could it be exercised at any time. While dealing with the question like the present one, a 3-Judge Bench of this Court in the case of *State of Gujarat v. Patil Raghav Natha*[1], with reference to Sections 65 and 211 of *Bombay Land Revenue Act, 1879*, held thus:

"11. The question arises whether the Commissioner can revise an order made under Section 65 at any time. It is true that there is no period of limitation prescribed under Section 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised.

12. It seems to us that Section 65 itself indicates the length of the reasonable time within which the Commissioner must act under Section 211.

Under Section 65 of the Code if the Collector does not inform the applicant of his decision on the application within a period of three months the permission applied for shall be deemed to have been granted. This section shows that a period of three months is considered ample for the Collector to make up his mind and beyond that the legislature thinks that the matter is so urgent that permission shall be deemed to have been granted. Reading Sections 211 and 65 together it seems to us that the Commissioner must exercise his revisional powers within a few months of the order of the Collector. This is reasonable time because after the grant of the permission for building purposes the occupant is likely to spend money on starting building operations at least within a few months from the date of the permission. In this case the Commissioner set aside the order of the Collector on October 12, 1961 i.e more than a year after the order and it seems to us that this order was passed too late."

14. While dealing with the suo-motu revisional power under Section 84-C of the *Bombay Tenency and Agricultural Lands Act, 1976*, this Court in *Mohamad Kavi Mohamad Amin v. Fatmabai Ibrahim*[2] held that generally where no time-limit is prescribed for exercise of power under statute, it should be exercised within a reasonable time. This is what this Court said:

> "Section 84-C of the Act does not prescribe any time for initiation of the proceeding. But in view of the settled position by several judgments of this Court that wherever a power is vested in a statutory authority without prescribing any time- limit, such power should be exercised within a reasonable time. In the present case the transfer took place as early as in the year 1972 and suo motu enquiry was started by the Mamlatdar in September 1973. If sale deeds are declared to be invalid the appellant is likely to suffer irreparable injury, because he has made investments after the aforesaid purchase. In this connection, on behalf of the appellant reliance was placed on a judgment of Justice S.B. Majmudar (as he then was in the High Court of Gujarat) in State of Gujarat v. Jethmal Bhagwandas Shah (Spe. WA No. 2770 of 1979) disposed of on 1-3-1990, where in connection with Section 84-C itself it was said that the power under the aforesaid section should be exercised within a reasonable time. This Court in connection with other statutory provisions, in the case of *State of Gujarat v. Patil Raghav Natha*[3] and in the case of *Ram Chand v. Union of India*[4] has impressed that where no time- limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time. We are satisfied that in the facts and circumstances of the present case, the suo motu power under Section 84-C of the Act was not exercised by the Mamlatdar within a reasonable time."

15. Recently, in the case of *State of Punjab and Others v. Bhatinda District Cooperative Milk Producers Union Ltd.*[5] while dealing with the power of revision under Section 21 of the *Punjab General Sales Tax Act, 1948*, it has been held:

> "17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefore, the same would not mean that the suo motu power can be exercised at any time.
>
> 18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.
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> 19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As

indicated hereinbefore, maximum period of limitation provided for in sub-section (6) of Section 11 of the Act is five years."

16. It seems to be fairly settled that if a statue does not prescribe the time limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.

> "Ordinarily, the reasonable period within which power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, but surely exercise of revisional power after a lapse of 17 years is not a reasonable time. Invocation of revisional power by the Sub- Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of Tehsildar passed on March 30, 1976 is flawed and legally not correct. Pertinently, Tukaram Sakharam Shevale, during his lifetime never challenged the legality and correctness of the order of Tehsildar, Shirol although it was passed on March 30, 1976 and he was alive upto 1990. It is not even in the case of Respondent Nos.1 to 5 that Tukaram was not aware of the order dated March 30, 1976. There is no finding by the Sub-Divisional Officer either that order dated March 30, 1976 was obtained fraudulently."

17. In what we have discussed above, the appeals deserve to be allowed against respondent Nos. 1 to 5 and are allowed and impugned orders are quashed and set aside as against them. Parties will bear their own costs.

[1]*(1969) 2 SCC 187*
[2]*(1997) 6 SCC 71*
[3]*(1969) 2 SCC 187)*
[4]*(1994) 1 SCC 44)*
[5]*(2007) 11 SCC 363*